

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GRANT R. SHERMAN,

Defendant-Appellant.

UNPUBLISHED

August 21, 2001

No. 230880

Presque Isle Circuit Court

LC No. 00-091834-FC

Before: Fitzgerald, P.J., and Gage and C. H. Miel*, JJ.

MEMORANDUM.

Defendant appeals as of right his plea-based conviction for second-degree criminal sexual conduct, MCL 750.520c. We affirm.

On appeal, defendant argues that the trial court abused its discretion in imposing a disproportionate sentence. This Court's review is limited to determining whether the sentencing court abused its discretion by violating the principle of proportionality. *People v St John*, 230 Mich App 644, 649; 585 NW2d 849 (1998). A sentence must be proportionate to the seriousness of the crime and defendant's prior record. *People v Rockey*, 237 Mich App 74, 79; 601 NW2d 887 (1999). The key test of proportionality is not whether the sentence departs from or adheres to the recommended ranges, but whether it reflects the seriousness of the matter. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995).

In order to facilitate appellate review, the sentencing court must articulate its reasons for departing from the guidelines range both on the record at sentencing and in the sentencing information report. MCR 6.425(D); *Rockey, supra*. The court stated that the departure was based on defendant's sexual abuse of another girl, indicating that this was not an isolated incident and defendant posed a continuing threat to other children. The court also considered defendant's lack of remorse, and his threat to kill the victim if she told anyone about his assault.

The trial court did not abuse its discretion in determining that the existence of multiple victims made defendant a more serious offender. Further, the fact that defendant threatened to kill complainant if she told about the assault is an additional factor that aggravated the seriousness of the offense, and increased the harm to the victim. There is no showing that the

* Circuit judge, sitting on the Court of Appeals by assignment.

trial court abused its discretion in departing from the guidelines recommendation based on this conduct.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Hilda R. Gage

/s/ Charles H. Miel